

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FELIX LUNA-HERNANDEZ,

Defendant.

No. CR05-4084-MWB

**ORDER ACCEPTING MAGISTRATE  
JUDGE'S REPORT AND  
RECOMMENDATION REGARDING  
DEFENDANT'S GUILTY PLEA**

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***I. INTRODUCTION AND BACKGROUND***

On August 23, 2005, a superseding indictment was returned against defendant Felix Luna-Hernandez, charging defendant with conspiring to distribute and possess with intent to distribute 50 grams or more of pure methamphetamine and to distribute and possess with intent to distribute 50 grams or more of pure methamphetamine within 1000 feet of a park, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), 860(a) and 846 and distributing 192.37 grams of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A). On November 28, 2005, defendant appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 4 of the superseding indictment. On this same date, Judge Zoss filed a Report and Recommendation in which he recommends that defendant's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant's plea in this case.

***II. ANALYSIS***

Pursuant to statute, this court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made, as follows:

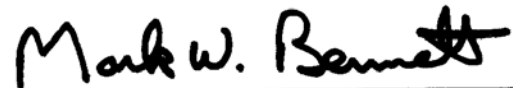
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the court upon review of Judge Zoss's findings and conclusions, that there is no ground to reject or modify them. Therefore, the court **accepts** Judge Zoss's Report and Recommendation of November 28, 2005, and accepts defendant's plea of guilty in this case to Count 4 of the superseding indictment.

**IT IS SO ORDERED.**

**DATED** this 14th day of December, 2005.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is written in a cursive style with a horizontal line underneath the name.

MARK W. BENNETT  
CHIEF JUDGE, U. S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA